

67,200-632; TSMC 00-761/01-0269
Serial Number 10/044,363

REMARKS

Favorable reconsideration of this application in light of the following remarks is respectfully requested.

Claims 1-14 are pending within this application. No claims are amended herein. No claims have been allowed.

Claim Rejections – 35 U.S.C. § 102

The Examiner has rejected claims 1-3, 5-10 and 12-14 under 35 U.S.C. § 102(e) as being anticipated by Brodersen et al. (U.S. Patent No. 6,405,220; hereinafter [Brodersen]).

Brodersen (Fig. 1 and cols. 5-6 “Overview”) teaches a computer system and method related to applicant’s multi-server computer system and method. The computer system includes a central computer system 1, as well as a series of client computer systems 21a, 21b and 21c. The computer system also provides for various update functions within the central computer system 1 (i.e., reference numeral 11) and the client computer systems (i.e., reference numerals 31a, 31b and 31c).

The Examiner reads Brodersen onto the foregoing of applicant’s claims to applicant’s invention. In so doing with respect to claims 1 and 8, the Examiner characterizes Brodersen’s computer systems 1, 21a, 21b and 21c as server computer systems. The Examiner cites as rationale for such characterization that “each computer can transfer [data or information] to other computers.” The Examiner thus further concludes that all elements within the foregoing of applicant’s claims are taught within Brodersen.

In response in a first instance, applicant respectfully disagrees with the Examiner’s reading of Brodersen insofar as the Examiner characterizes Brodersen’s computer system as comprising a plurality of server computers 1, 21a, 21b and 21c. Rather, applicant

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understands Brodersen at col. 5, lines 7-10 to characterize Brodersen's computer system 1 as a central computer system, which is arguably a server computer system. Also, more particularly, Brodersen at col. 5, lines 18-19 characterizes Brodersen's computer system 21a (and by implication computer systems 21b and 21c) as client computer systems.

Applicant further respectfully disagrees with the Examiner's apparent characterization of server computer systems as computer systems that can transfer data or information to other computer systems. Operative definitions of a server computer system and a client computer system may be found at www.webopedia.com. Copies of the definitions were previously provided for the record. Typically a client computer system relies upon a server computer system to perform some type of operation. Generally a server computer system is a computer system or device on a network that manages network resources.

Applying the foregoing definitions to Brodersen's computer system as shown in Fig. 1 provides that Brodersen's computer system 1 is clearly a server computer system since it manages an update function for all remaining computer systems 21a, 21b and 21c within Brodersen's computer network. In comparison, each of Brodersen's remaining computer systems 21a, 21b and 21c relies upon Brodersen's server computer system 1 for purposes of obtaining update data and information from remaining of Brodersen's computer systems 21a, 21b or 21c. At minimum, each of Brodersen's computer systems 21a, 21b and 21c clearly does not manage network resources in an aggregate, but rather each of them provides a remote source of information for updates to all computers within Brodersen's computer system. Thus, each of Brodersen's computer systems 21a, 21b and 21c is clearly unambiguously a client computer system as defined by Brodersen, and not a server computer system as suggested by the Examiner.

Since applicant's invention as disclosed and claimed within claims 1 and claim 8 requires "a plurality of server computers," while Brodersen's invention apparently includes a

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single server computer system 1 and a plurality of client computer systems 21a, 21b and 21c, applicant asserts that claim 1 and claim 8 may not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by Brodersen. Since all remaining claims within the foregoing rejections are dependent upon claim 1 or claim 8 and carry all of the limitations of claim 1 or claim 8, applicant additionally asserts that those remaining claims may also not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by Brodersen.

In summary, the Examiner clearly characterizes each of Brodersen's computer systems 1, 21a, 21b and 21c as a server computer system. However, Brodersen characterizes Brodersen's computer system 1 as a server computer system, but Brodersen characterizes computer systems 21a, 21b and 21c as client computer systems. Since: (1) Brodersen thus teaches one server computer system and three client computer systems; and (2) applicant claims within claim 1 and claim 8 "a plurality of server computers," claim 1 and claim 8 may not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by Brodersen. Brodersen's single server computer system 1 and plurality of client computer systems 21a, 21b and 21c simply do not equate to applicant's "plurality of server computer systems."

In response in a second instance, applicant also notes that applicant claims within claim 1 and claim 8 a series of database update detection and installation utilities within applicant's plurality of server computers. They serve to both: (1) "automatically detect an externally initiated update to a database within [a] corresponding series of databases and automatically forward the externally initiated update to each of the remaining server computers within [a] plurality of server computers through [a] series of communications interfaces;" and (2) "automatically receive the externally initiated update through the series of communications interfaces from a server computer within the plurality of server computers and install the update within the remaining databases within the remaining server computers which receive the update through the series of communications interfaces."

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Thus, applicant's invention provides for an automatic update of all server computers within applicant's plurality of server computers when a single server computer within applicant's plurality of server computers is updated.

In comparison, Brodersen at col. 5, lines 27-48 provides that activities directed towards updates of Brodersen's computer systems are undertaken "at the convenience of the operator [of Brodersen's central server computer or remote client computer systems]." Brodersen's updates are thus clearly undertaken at the instance of an operator of a computer system, rather than automatically as updates are undertaken in accord with applicant's invention.

Thus, since each and every element within applicant's invention as disclosed and claimed within claim 1 and claim 8 is not taught within Brodersen, in addition with respect to an automatic update of a series of databases within a plurality of server computers, applicant asserts that claim 1 and claim 8 may for this reason also not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by Brodersen. Since all remaining claims within the foregoing rejections are dependent upon claim 1 or claim 8 and carry all of the limitations of claim 1 or claim 8, applicant additionally asserts that those remaining claims may also not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by Brodersen.

In further summary, Brodersen manually initiates updates to Brodersen's central server computer and Brodersen's remote client computers. Since such manually initiated updates are inapposite to applicant's corresponding automatically initiated updates, applicant asserts that in this respect also applicant's claims 1 and 8 are not anticipated by Brodersen.

Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected claims 4 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Brodersen in view of the Examiner's official notice.

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The Examiner's official notice is that XML and PHP are standardized programming languages that were widely known at the time of applicant's invention. The Examiner further asserts that it would have been obvious to modify Brodersen to incorporate XML or PHP into either the programming of applicant's servers or the content of applicant's updates since both XML and PHP are "desirable standards that are widely used in the computer programming arts."

In response in a first instance, applicant predicates patentability of claims 4 and 11 upon their corresponding dependence upon claims 1 or 8.

In response in a second instance, applicant notes that "[i]t would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." Further, applicant also notes that "assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art." MPEP 2144.03 (citing *In re Ahlert* (citation omitted)).

In the instant application, applicant regards programming languages such as XML and PHP as "esoteric technology." As a result thereof, applicant asserts that citation to some reference work is appropriate in support of the Examiner's official notice.

As to the Examiner's suggestion or motivation to modify or combine the prior art Brodersen to provide an applicant's claimed invention, the Examiner appears to be improperly predicating such suggestion or motivation upon the Examiner's official notice that XML and PHP "are desirable standards that are widely used in the computer programming arts."

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"There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art and the knowledge of persons of ordinary skill in the art." MPRP 2143.01 (citing *In re Rouffet* (citation omitted)). Not apparently included with the possible sources for suggestion or motivation to modify or combine references is an Examiner's otherwise unsupported official notice.

Thus, since: (1) applicant notes that the Examiner apparently employs official notice for modifying Brodersen to provide applicant's invention as claimed within claims 4 and 11; and (2) since applicant further notes that such official notice is apparently improper as a basis for suggestion or motivation for modification or combination of references, applicant asserts that Brodersen may not properly be modified to provide applicant's invention as claimed within claims 4 and 11 for official notice reasons as cited by the Examiner.

In light of the foregoing response, applicant respectfully requests that the Examiner's rejections of claimed 4 and 11 over Brodersen in view of the Examiner's official notice be withdrawn.

Response to Arguments

The Examiner in a first instance again asserts that each of Brodersen's computers 1, 21a, 21b and 21c is a server computer, rather than either a server computer (i.e., computer 1) or a remote client computer (i.e., computers 21a, 21b and 21c) as asserted by applicant. In support thereof, the Examiner employs applicant's definition of server computer as found at www.webopedia.com. The Examiner further asserts that since each of computers 21a, 21b and 21c has a corresponding update manager 31a, 31b or 31c it is a server computer since it thus manages network resources in accord with the www.webopedia.com definition of a server computer.

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While applicant appreciates that the Examiner has employed the www.webopedia.com definition of a server computer, applicant nonetheless also respectfully submits that the www.webopedia.com definition of a server computer is also appropriately understood within the context of the www.webopedia.com definition of a client computer. The www.webopedia.com definition of a client computer is that "a client computer system relies upon a server computer system to perform some type of operation." Within the context of Brodersen's multi-computer computer system, computer 1 is employed as an intermediary computer system through which all updates must flow before reaching any one of computers 21a, 21b or 21c. Since any one of computers 21a, 21b or 21c must rely upon computer 1 as an intermediary computer system to obtain an update from another of computer 21a, 21b or 21c, applicant continues to assert that Brodersen's computer 1 is a server computer and Brodersen's computers 21a, 21b and 21c are rather in fact client computers rather than server computers.

Thus, since within the context of an understanding of definitions of both server computers and client computers Brodersen's computers 21a, 21b and 21c must rely upon Brodersen's computer 1 for purposes of upgrades among each other, applicant asserts that Brodersen's computers 21a, 21b and 21c are clearly client computers and that they are not unambiguously server computers, as asserted by the Examiner. Since they are not unambiguously server computers, applicant further asserts that applicant's claims 1 and 8 may not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by Brodersen, since while applicant claims within claim 1 and claim 8 a plurality of server computers, Brodersen in fact teaches only a single server computer.

In a second instance, the Examiner asserts that while Brodersen teaches that a "user makes the document changes to initiate [an] updating process, the user in Brodersen et al. does not manually detect the update, nor does the user manually load the new updated data into the remote database."

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In response, applicant respectfully disagrees with the Examiner's characterization of Brodersen within the context of applicant's claim 1 and applicant's claim 8. Claim 1 and claim 8 in particular claim a series of database update detection and installation utilities that "automatically receive [an] externally initiated update." In comparison Brodersen at col. 6, lines 4-7 teaches in particular that "the operator of node 21b has requested only to send his updates to the central computer 1, and has not requested to be presented with changes made elsewhere to be made to his partially replicated database 23b." Since Brodersen teaches that the operator of remote client computer 21b is clearly provided within the context of Brodersen's invention with an option to decide whether or not to accept an update to that remote client computer 21b, such an update to the remote client computer 21b is clearly not automatically received. Brodersen clearly teaches an operator intervention such as to refuse an automatic update to a database, rather than an automatic update to a database and is disclosed and claimed by applicant within claim 1 and claim 8.

In a third instance, the Examiner continues to assert that XML and PHP "are well known and widely available for usage by computer users and developers." Thus, the Examiner also implies that they are sufficiently well known that official notice of same may be employed absent documentary evidence for purposes of rejecting applicant's claim 4 and claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Brodersen.

In response, applicant asserts that "ordinarily there must be some form of evidence in the record to support an assertion of common knowledge." MPEP 2144.03 (citing *In re Lee* (citation omitted)). Similarly, "[i]f official notice is taken of a fact, unsupported by documentary evidence, the technical line of reasoning underlying a decision to take such notice must be clear and unmistakable." MPRP 2144.03. Within the context of the instant application, the Examiner provides no documentary evidence that XML and PHP are in fact widely known at the time of applicant's invention. In addition, applicant also asserts that the Examiner does not in fact provide any line of reasoning as to why official notice is appropriate absent documentary

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evidence. Thus, applicant continues to assert that official notice of common knowledge of XML and PIIP is not proper and that documentary evidence is required. Similarly, even if XML and PIIP are in fact commonly used in the computer programming arts, they are not necessarily generally compatible such as to provide applicant's invention as claimed within claim 4 and claim 11. For the foregoing reasons, applicant continues to assert that: (1) official notice of XML and PIIP as art recognized standards is improper absent documentary evidence; and (2) even with documentary evidence, the mere existence of XML and PHP as art recognized standards does not necessarily provide adequate basis for rejection of applicant's claim 4 and claim 11 to under 35 U.S.C. § 103(a) as being unpatentable over Brodersen.

In light of the foregoing responses, applicant continues to assert that applicant's claims to applicant's invention may not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by, or 35 U.S.C. § 103(a) as being obvious over, Brodersen.

Other Considerations

Applicant acknowledges the additional prior art of record previously cited by the Examiner on form PTO-892 but not employed in rejecting applicant's claims to applicant's invention, as generally pertinent to applicant's invention. No fee is due as a result of this amendment and response.

SUMMARY

Applicant's invention as disclosed and claimed within claim 1 and claim 8 is directed towards a multi-server computer system and a method for operating the multi-server computer system. The system and the method provide for an automatic update of a series of databases within a plurality of server computers within the multi-server computer system. The prior art does not anticipate applicant's invention. Nor may the prior art properly be modified or combined incident to the Examiner's official notice to provide applicant's claimed invention.

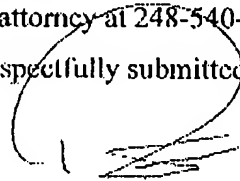
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CONCLUSION

On the basis of the above remarks, reconsideration of this application, and its early allowance, are respectfully requested.

Any inquiries relating to this or earlier communications pertaining to this application may be directed to the undersigned attorney at 248-540-4040.

Respectfully submitted,



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